

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LIBERTY MUTUAL FIRE
INSURANCE CO., *et al.*,

Plaintiffs,

Case No. 19-12051

v.

Hon. George Caram Steeh

MICHAEL ANGELO
ORTHOPEDIC, P.C., *et al.*,

Defendants.

_____ /

ORDER GRANTING MOTION FOR
ISSUANCE OF SUMMONS (ECF No. 26)

Plaintiffs seek the issuance of a new summons for Defendants Chitra Sinha and Mercyland Health Services. Plaintiffs state that although there is a waiver of service on the docket attributed to Mercyland, it was signed by “Meds Direct,” not Mercyland. Sinha also returned a waiver of service, but did not respond to the initial complaint. Plaintiffs filed an amended complaint on October 21, 2019, and seek issuance of a new summons so that Sinha and Mercyland may be properly served with the First Amended Complaint.

Federal Rule of Civil Procedure 4(m) provides:

If a defendant is not served within 90 days after the complaint is filed, the court . . . must dismiss the action

without prejudice against that defendant *or order that service be made within a specified time*. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Id. (emphasis added). The Advisory Committee notes provide that this section “authorizes the court to relieve a plaintiff of the consequences of an application of this subdivision even if there is no good cause shown.” *Id.* (Advisory Committee Notes to 1993 Amendment). See also *Slenzka v. Landstar Ranger, Inc.*, 204 F.R.D. 322, 325-26 (E.D. Mich. 2001) (“[G]ood cause no longer stands as an absolute prerequisite to extending the time for obtaining proper service of process.”) (citing cases).

Although Plaintiffs have not articulated good cause for failing to effect service within the 90-day time period, the court may extend the time for service rather than dismissing the action without prejudice. Under the circumstances presented here, an extension of time is preferable to dismissal. Accordingly, the court will GRANT Plaintiffs’ motion for issuance of a summons (ECF No. 26) and extend the time for service of the summons and complaint for 45 days from the date of this order.

SO ORDERED.

Dated: November 13, 2019

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
November 13, 2019, by electronic and/or ordinary mail.

s/Marcia Beauchemin
Deputy Clerk